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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,936	04/14/2004	Vahid Saadat	021496-000700US	7289
20350	7590	04/04/2006		
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER KASZTEJNA, MATTHEW JOHN	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/824,936

Applicant(s)

SAADAT ET AL.

Examiner

Matthew J. Kasztejna

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/16/06, 11/16/05, 9/26/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice of Amendment

In response to the amendment filed on January 13, 2006, amended claims 1, 31 and 44 are acknowledged. The current rejections under 35 USC § 102 and 35 USC § 103 are *withdrawn*. The following new grounds of rejection are set forth:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-50 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,305,121 to Moll.

In regards to claims 1 and 44-46, Moll discloses an apparatus for obtaining endoluminal access, the apparatus comprising: a flexible elongate body 12 having a working axis and a distal region, the elongate body configured for insertion within a body lumen; and at least one articulating element 17a disposed near or at the distal region of the elongate body, wherein the articulating element is configured to articulate from an in-line position to an off-axis position relative to the working axis of the elongate body (see Figs. 4 and 5).

In regards to claims 2, 19 and 47 Moll discloses an apparatus for obtaining endoluminal access, wherein the articulating element comprises a visualization element configured to image within a body lumen (see Col. 2, Lines 27-48).

In regards to claim 3, Moll discloses an apparatus for obtaining endoluminal access, wherein the articulating element comprises the distal region of a lumen extending through the elongate body (see Fig. 4).

In regards to claim 4, Moll discloses an apparatus for obtaining endoluminal access, wherein the apparatus has a delivery configuration in which the articulating element is aligned with or adjacent to the working axis of the elongate body, and a deployed configuration wherein the articulating element is articulated off-axis from the working axis of the elongate body (see Col. 5, Lines 16-47).

In regards to claim 5, Moll discloses an apparatus for obtaining endoluminal access, wherein the articulating element further comprises at least two articulating elements 17a-b (see Fig. 1).

In regards to claim 6-7, Moll discloses an apparatus for obtaining endoluminal access, wherein the at least two articulating elements are configured for independent off-axis articulation or coordinated off-axis articulation (see Col. 3, Lines 10-54).

In regards to claims 8-9 and 41, Moll discloses an apparatus for obtaining endoluminal access, wherein the at least two articulating elements comprise at least two visualization elements configured to provide stereoscopic visualization (see Col. 1, Lines 38-64).

In regards to claims 10-13, 25, 29-30 and 49-50, Moll discloses an apparatus for obtaining endoluminal access, wherein the visualization element comprises a video chip which comprises an image sensor, Further more the image sensor may be a CCD (see Col. 2, Lines 49-53 and Col. 6, Lines 23-53).

In regards to claims 14, Moll discloses an apparatus for obtaining endoluminal access, wherein the visualization element is coupled to a display unit 65 (see Fig. 6).

In regards to claim 15, Moll discloses an apparatus for obtaining endoluminal access, wherein the elongate body further defines a lumen (see Fig. 5)

In regards to claims 16-17 and 20, Moll discloses an apparatus for obtaining endoluminal access, wherein off-axis articulation of the articulating element is configured to expose a distal opening of the lumen (see Fig. 4).

In regards to claims 18, Moll discloses an apparatus for obtaining endoluminal access, wherein the distal opening is covered by the articulating element in the delivery configuration (see Figs. 3 and 5).

In regards to claim 21, Moll discloses an apparatus for obtaining endoluminal access further comprising a light source 20 configured to illuminate the interior of the body lumen and facilitate visualization with the visualization element (see Col. 2, Lines 27-48).

In regards to claim 22, Moll discloses an apparatus for obtaining endoluminal access wherein the elongate body further defines multiple lumens (see Col. 6, Lines 23-53).

In regards to claim 23, Moll discloses an apparatus for obtaining endoluminal access further comprising a housing configured to couple the articulating element to the elongate body and to facilitate articulation of the articulating element (see Figs. 1-2).

In regards to claim 24, Moll discloses an apparatus for obtaining endoluminal access, wherein the housing comprises at least one linkage 186 for articulating the articulating element (see Fig. 4).

In regards to claims 26-28 and 48, Moll on discloses an apparatus for obtaining endoluminal access, wherein the elongate body is steerable, rigidizable and has a steerable shaft (see Col. 6, Lines 23-53).

In regards to claims 31-43, the apparatus of Moll is considered to be inherently capable of performing the recited method claims.

Response to Arguments

Applicant's arguments with respect to claims 1-50 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.

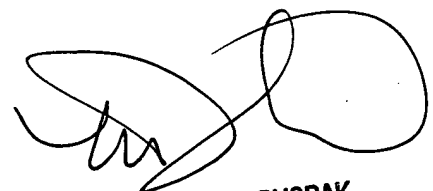
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJK



3/29/06



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